



June 6, 2013

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: GN Docket No. 12-353, Comment Sought on the Technological Transition of the Nation's Communications Infrastructure; GN Docket No. 13-5, Technology Transitions Policy Task Force Notice of *Ex Parte* Meeting

Dear Ms. Dortch:

On June 5, 2013, Harold Feld, Senior Vice President, Public Knowledge (PK), spoke with Dave Grimaldi, Chief Counsel and Senior Legal Advisor to Chairwoman Clyburn, with regard to the above captioned proceeding.

PK noted that Verizon has publicly stated it is working with the FCC to file the necessary 214(a) request for permission to permanently discontinue copper-based TDM service in portions of Fire Island and other areas impacted by Superstorm Sandy.

- PK does not doubt the good faith of Verizon's public statements that they are diligently working in cooperation with Commission staff to file the necessary 214(a) request. Nevertheless, it has taken 5 weeks since Verizon filed its amended tariff with the NY PSC.
- This delay, combined with the FCC's official notice of the Fire Island Voice Link deployment in the PSTN Task Force Public Notice, has created confusion over whether the FCC requires providers of TDM service to file a 214(a) to permanently discontinue copper-based TDM service after a natural disaster destroys the lines. This confusion is reflected by line staff informing members of the public that Verizon's actions are "acceptable,"¹ without also informing the public of the procedures to file objections to Verizon's 214(a) notice.²
- Confusion on this point threatens to undermine the PSTN Transition process. If carriers erroneously believe they can engage in "self-help," they will decline to participate in structured pilot programs and deploy new systems without appropriate protections for the public.

¹ See Harold Feld, "FCC Needs To Step Up On Voice Link," available at <http://tales-of-the-sausage-factory.wetmachine.com/fcc-needs-to-step-up-on-voice-link-nature-and-natural-disasters-abhor-a-vacuum/>

² See FCC, "When Your Telephone Company Discontinues Service," <http://www.fcc.gov/guides/when-your-telephone-company-discontinues-service-or-files-bankruptcy>

- The Commission should therefore expedite Verizon's filing. To the extent the rules require prior notice to subscribers or other issues that may have delayed Verizon's filing, the FCC should require Verizon to file its 214(a) now and allow amendment to demonstrate compliance with any notification requirements. This should be clearly stated as recognition of the unprecedented circumstances of this case.
- On receiving Verizon's 214(a), the FCC should publicly clarify that the delay in filing the needed Section 214(a) notification was the result of unique circumstances in this case and were not the result of any confusion over the need for carriers to file a request to discontinue service under Section 214(a) if a carrier decides to permanently discontinue TDM service. Verizon and Commission staff remained in constant consultation and at no time was any "self-help" contemplated or permitted by the Commission.
- As demonstrated by the lengthy delay and subsequent confusion, it is clear the FCC must provide guidance to carriers on when to file a 214(a) following a natural disaster and when the Special Temporary Authority (STA) to deploy substitute service as an interim measure applies. A 214(a) should be required as soon as the carrier determines that it will permanently discontinue TDM service. At the latest, 214(a) requests for discontinuance should be filed simultaneously with any state filing.
- The Commission should conduct a proceeding to adopt a special 214(a) process addressing what happens when a natural disaster destroys existing copper infrastructure and the carrier wishes to discontinue TDM service. The Commission should set standards for what constitutes an adequate replacement service, ensuring that consumers are adequately protected. Further, so as not to prejudge the outcome of the transition, the Commission should regulate any replacement service as if it were TDM pending resolution of the transition.

Respectfully submitted,

/s/
Harold Feld
Senior V.P.
PUBLIC KNOWLEDGE

cc: Dave Grimaldi